

Joseph R. DeSimone President LUTCF, FICF

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Re: File 8695

Ms. Toni Brown
Special Investigator
Arizona Corporation Commission
Securities Division
1300 West Washington, Third floor
Phoenix, AZ. 85007

June 20, 2017

Dear Investigator Brown:

I entered into an agent's agreement with Financial Product Distributors, LLC. April 4, 2017. **I have never been involved with Andrew Gamber, Sobell Corp, Voyager Financial, or BAIC.** I have absolutely no history with the product your office has called "pension streams" in any capacity with the above person/entities. I certainly do not have any history with "pension streams" until April 2017. I have never used that term in my conversations with any party.

I have viewed the materials, accusations, and mistakes of Andrew Gamber and Voyager Financial with public online resources. The explanation and critique from regulators in those resources do not apply to my work started this April 2017. With the due diligence and structure of the agreement by the **attorneys at Upstate Law Group**, I have been involved with a structure **that does not involve only one** party whose performance is completely relied on. The agreement formulated by the attorneys at Upstate Law Group have positioned this transaction as "**a purchase of a contractual right to a payment obligation and not the payment *per se***" (Disclosure of Risk Statement found in the PRN Kits submitted). Upstate law Group has a multiple party structure including **1) Buyer, 2) Seller, 3) Performance Arbitrage Company** (performs critical evaluation of sellers as well as replacing buyer funds caused by seller non-performance in the future and **4) Upstate Law Group utilizes an IOLTA Account** under



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the supervision of the **South Carolina Bar Association** with the benefit of a comprehensive **three-way reconciliation** of IOLTA Accounts between attorneys, their clients, and the **Bar Association of South Carolina**. Buyer's income payments only pass through an IOLTA Account of Upstate Law Group. **Contact Information: State Bar of South Carolina, 950 Taylor Street, Columbia SC 29201, P: 803.799.6653.**

Additionally, **Performance Arbitrage's** funds for lack of performance by a seller are **held only in an IOLTA Account of Upstate Law Group**. Performance Arbitrage **never holds** funds that may indemnify buyers in the future. The structure set up by Upstate Law Group includes **multiple protections for buyers and sellers integrated with the secured escrow benefits of having funds held within the strict regulation of the South Carolina Bar Association** under their very own IOLTA Trust Agreement prescribed by state law. **State Bar Associations are very protective** of their IOLTA accounts on behalf of clients as well as their stated philanthropic projects from the interest earned in those accounts each year. The Bar Association has zero tolerance for attorneys who abuse their responsibility regarding IOLTA accounts. Attorneys have been known to have severe sanctions against them imposed for their lack of fiduciary responsibility in the management of their IOLTA accounts. Lastly, Upstate Law Group maintains Lawyer's Professional Liability Insurance as an added protection to clients served by their IOLTA accounts. **Upstate Law Group can be reached at : 200 E. Main Street, Easley SC. 29640, (864) 855-3114.**

In addition to the protections found in the structure of the agreement, the attorneys at Upstate Law Group have made very clear and far-reaching disclosures concerning the risks. Upstate Law Group, additionally will review and reject potential sellers brought to them before the closing of an agreement, as well as before acceptance by Performance Arbitrage Company. This due diligence is so comprehensive that in my experience, life insurance has not been required of a potential seller. Most importantly, it has also been my experience that Upstate Law Group will decline a potential seller due to a problem discovered in its due diligence process and required document requests of the seller. Financial Product Distributors, LLC. has verbally shared with me, that the due diligence process is so comprehensive, that not every person who wants to be a seller is eligible. However, **Financial Product Distributors LLC.** has directed me to **page 8** of their current **Buyer's Guide (refers to the Disclosure of Risk Statement seen in the individual PRN agreements submitted in Exhibit 5 and Exhibit 12)**. The commentary originated from an email **dated June 20, 2017, at 15:16 titled RE: per your voicemail**. Moreover, it was related to me that Performance Arbitrage's priority and business model is to ideally have strong performance by the seller, in order that the assigned funds in the IOLTA Account, designated to protect buyers, would potentially never be used. This goal would impel superior buyer satisfaction and a solid business operating structure for Performance Arbitrage. **However, within the Risks of Disclosure Statement, the buyer must approve a comprehensive and extensive ledger listing disclosures of known risks**

as well as *unknown risks*. Lastly, the buyer clearly acknowledges and endorses an underlined disclosure that this is *clearly "not a guaranteed product" (Risks of Disclosure Statement found in NPR).*

In addition to comprehensive disclosures, is the unique and separate role Performance Arbitrage Corporation has as a standing and readied buyer to those buyers experiencing non performance by their seller. Buyer's future payments are protected by the role of Performance Arbitrage in conjunction with funds held in a segregated IOLTA account of Upstate Law Group. Moreover, the enclosed PRN Documents show that Performance Arbitrage is legally empowered on behalf of buyers by the facts of 1) incentive of liquidated damages in the amount double the amount of outstanding payments (**Contract for Sale of Payments**), and 2) **a UCC 1 lien is imposed** on the asset/collateral to assist Performance Arbitrage (**Security Agreement**). After 3 missed payments by seller, Performance Arbitrage will be ready to have the buyer dispose the asset to their control. In exchange, the buyer never misses one payment, because Performance Arbitrage then directs all payments from the IOLTA Trust Account of Upstate Law Group to the buyer for all payments due and expected. The buyer would simply have to contact: **Michelle Plant COO and Vice President, Performance Arbitrage Company Incorporated, 232 Market Street, Flowood, MS 39232, P: 601-497-922, F: 866.657.2612.** Also Financial Product Distributors LLC. can assist with buyer service as well at: **M. David Woodward, CLU/ Managing Partner, 1250 S. Capital of TX Hwy./Bldg.3, Ste. 400, Austin, TX 78746, P:512.263.7125, F: 866.344.0263.**

The problems of Andrew Gamber and Voyager Financial date back to 2012. **I have only been involved with Financial Product Distributors, LLC., for approximately 3 months, and have never recommended any agreement endorsed and practiced by Gamber, Sobell Corp., Voyager Financial or BAIC.** I have had wonderful working relationships with clients and citizens of Arizona for over 24 years. Additionally, I have been very active in local charities and have enjoyed supporting local community projects in our home of Arizona for a period extending over 24 years.

Exhibit 1. Letter from elder care attorney, Robert Way, dated April 20, 2017, to assist with his client's problem. Mr. Way points out that his client is very unhappy, her financial position is worsening, and there is a concern about the fees paid against the performance of her portfolio for approximately ten years. Robert Way initiated the process by first calling my office with his client in his office. I only decided to assist his client because he affirmed his support and participation in the process. However, Mr. Way warned us that he had dealt with Nova Financial before, and they were incredibly difficult to deal with.

Also attached is website information concerning Robert Way.

Exhibit 2. Letter from Nova Financial Chief Compliance Officer Blake Bjordahl dated May 22, 2017, to myself and attorney Robert Way stating they were now ready to assist us. This letter comes **after the complaint** made to your office. Apparently, Mr. Bjordahl, is ignoring Mr. Way's letter with instructions not to contact Ms. Hastings. Throughout the time from Mr. Way's letter to the receipt of Mr. Bjordahl's letter, Nova Financial refused to acknowledge Mr. Way as a legitimate member of the Arizona Bar Association. They refused to acknowledge his letter. They found every excuse not to allow him to represent his client on behalf of her concerns. Even on a conference call with client's broker, Jeff Daniels, and Managing Partner Jake Kagele, it quickly turned into a shouting match and verbal brawl with the client on the phone. Moreover, there was a total disregard for the client's instructions to liquidate the account during that call. **Additionally, there never was any attempt to provide the proper forms to Mr. Way or myself for an orderly direction and execution of the client's desires.**

Exhibit 3. IOLTA Account under the **State Bar of South Carolina**. This complaint was generated over an accusation that funds were directed to go to an IOLTA Account in South Carolina. We had no reason to believe that the State Bar of South Carolina had any concern with this account since this account is highly regulated and scrutinized by the State Bar of South Carolina. Moreover, any type of problem or undermining of client funds held in trust would be immediately brought to the attention of all required parties of the State Bar.

Exhibit 4. Upstate Law Group, in the State of South Carolina, has the responsibility to scrutinize and perform all final due diligence between a direct buyer and a direct seller. I am strongly relying on the due diligence of the attorneys at Upstate Law Group. It is solely their responsibility delegated by their expert legal training and fiduciary responsibility as an attorney towards their clients.

Also attached is website information concerning Upstate Law Group.

Exhibit 5. This contains PRN 1689, PRN 1785, PRN 1702, PRN 1684, PRN 1688 which are called **Fulfillment Kits**. **Fulfillment Kits** are uniquely created for each closing transaction of a direct seller with a direct buyer. The complete information of the seller, as well as the necessary information of the buyer, are both plainly disclosed. All disclosures of risk are plainly enumerated and explained in detail. Additionally the extensive documentation by the seller, during the due diligence process, is described in detail. **Upstate Law Group's IOLTA Account** is utilized as an escrow account between buyer and seller. The **IOLTA Account** is also used to hold funds if **Performance Arbitrage**, as a ready and standing buyer, is needed to fulfill an unique agreement with a buyer experiencing nonperformance by a seller (**See PAC documents in each PRN Exhibit 5**) **Performance Arbitrage** does not hold funds for future situations of nonperformance like State Farm Insurance would. It is not a Guarantee Association or Insurance Company(**mypaconline.com**). Therefore, the IOLTA Account is used to

protect all parties involved in this direct transaction. The enclosed PRN Closing Documents clearly set forth the layers of buyer protection by the disclosed and separate participating parties, involved in this structured legal agreement. The authors of these documents clearly demonstrate and categorize the purpose and design of this asset's structure. Moreover, the originators of this document, placed many legal safeguards to prevent undesirable power to be obtained and exerted by any one party, either directly or indirectly,

Exhibit 5(a). Proof of separate payments from one unique seller to one unique buyer. The Moreno Legacy Trust utilized five unique sellers in order to fulfill its needed income goal. Therefore, five separate payments were made for the month of May 2017. Moreover, payments are never grouped together or pooled in any way. Each fulfillment completes the transaction between only one seller to one buyer. There can never be a commingling of funds. This also demonstrates the fidelity to the rules and laws of an attorney's IOLTA account. Blank copies of essential forms contained in each PRN also attached for your convenience.

Exhibit 6. It shows the breakdown and source of each PRN Fulfillment Kit mentioned in Exhibit 5.

Exhibit 7. This is the Buyer's Agent Agreement. DeSimone Blue Chip Planning, LLC, has no down line structure of agents within this process. I have never been contracted with Andrew Gamber, Voyager Financial, Sobell Corp., or BAIC. Moreover, I have never received any possible compensation from either of the above parties. It would be a chronological impossibility.

Exhibit 8. This is the Structured Assets Buyer's Guide. It is issued on request. DeSimone Blue Chip Planning has never done business with GoldStar Trust Company. I have no reason to believe that I have ever been involved in any national or regional marketing promotion of this program by television, radio, internet, or seminar.

Exhibit 9. The enclosed shows DeSimone Blue Chip Planning's status with the Arizona Corporation Commission, articles of incorporation/amendments, operating agreement, shareholders. DeSimone Blue Chip Planning started in the field of life insurance approximately 24 years ago and has been in good standing with the State of Arizona during those years.

Exhibit 10. PRN 1809

Exhibit 11. PRN 1839.

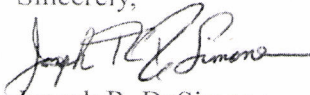
Exhibit 12. PRN 1844.

Exhibit 13. Acknowledgment/Authorization/Notice of Right of Review Period and Rescission/Contract Ratification.

Exhibit 14. Emails

To conclude, I relied on attorney Robert Way's direction and commitment to his client. He engaged me to assist. Otherwise, I never would have been involved with his client. I worked directly with him, and I moved forward each step in conjunction with his knowledge, as well as the approval of his client. Upstate Law has provided the structure and due diligence in the understanding of the relationship and duties between buyer and seller. They have built their agreement under a specific legal structure utilizing an IOLTA account based on the laws and ethical model of the State Bar Association of South Carolina. **From the time I have been contracted with Financial Product Distributors, LLC., no client complaints nor seller defaults have been reported among the 4 buyers I have represented.** This complaint is from a brokerage firm acting out of a conflict of interest, in order to protect its business, and to avoid the responsibility of a serious complaint from a client that they were not handling well for nearly a decade.

Sincerely,



Joseph R. DeSimone
President

Appendix/Disclosures File No. 8695

B) Documents and Information to be Produced

1.

(a) Exhibit 9

(b) Not Applicable for LLC.

(c) Exhibit 9

(d) See Transmittal Letter. We have never had employees. We do not have documents available to properly satisfy this question. However, my mother, Camille DeSimone, who is a retired legal secretary of the City of Tucson Attorney's Office and the Marana Town Attorney's Office under Frank Cassidy, has helped me the last approximately 3 years as an nonsalaried office assistant. She has been at that duty during the **three months of our work in 2017 with structured assets.**

(e) Not applicable, DeSimone Blue Chip Planning has never constructed or created this agreement. Please refer to Upstate Law Group and Performance Arbitrage Company.

2. Only in the capacity of client sales. We are not producers of structured assets agreements.

3. Exhibits 5, 5(a), 10, 11, 12. I had extensive conversations with David Woodward before and after contracting. I also had separate contacts before and after contracting with Jeff Ahern of Secured Positions and his partner, Jim Hienemann, via phone on several occasions. Jeff Ahern's Contact Information: [REDACTED] Ohio [REDACTED] Phone: [REDACTED] Jim Hienemann's Phone: [REDACTED]

4. Exhibits 7, 14 (emails with David Woodward). Jeff Ahern of Secured Positions received a small referral fee and shared one time the amount of \$750 with me in May, 2017. Communication was by phone.

5. Exhibits 7, 14 (emails with David Woodward). Additionally, discussed sales ideas for potential clients with Jeff Ahern of Secured Positions via phone.

6. Exhibits 7, 14 (emails with David Woodward), and transmittal letter

7. Exhibits 8, 14 (Illustrations and calculations from David Woodward)

8.

(a) Exhibits 5, 5(a), 10, 11, 12

(b) Exhibits 5, 5(a), 10, 11, 12

(c) Exhibits 5, 5(a), 10, 11, 12

(d) Exhibits 5, 5(a), 10, 11, 12, 13

(e) Exhibits 5, 5(a), 10, 11, 12, 13

- (f) Exhibits 5, 5(a), 10, 11, 12, 13
- (g) Exhibits 5, 5(a), 10, 11, 12, 13
- (h) Transmittal letter Page 2
- 9. Exhibits 5, 5(a), 10, 11, 12, 13
- 10. Transmittal Letter (last paragraph)
- 11. Exhibits 5, 5(a), 8, 10, 11, 12, 13, transmittal letter

Disclosure - All documents and my signature on the *affidavit of records* are based on the best of my ability. All statements and documents are made in **good faith**. However, in today's excessive conversational use of emails, some may have not been saved. The scope and breath of the subpoena are so vast, that it is very challenging to account for so many possible events in the past.

Email Disclosure #1 I know that there was an email between approximately April 20, 2017 and May 20, 2017 that I cannot find. It regarded attorney Robert Way's efforts to bring to my attention a posting on the SEC website about Upstate Law Group and Performance Arbitrage. I had shared with Robert the background of prior inquiries by regulators in Texas regarding those entities from what was relayed to me by David Woodward of Financial Product Distributors, LLC.

Email Disclosure #2 I have elected not to send the document titled Structured Assets-Updated Marketing Materials from dwoodward@financialproductdistributors.com dated January 11, 2016, at 13:21. It contains advertising materials that I have no reason to believe I asked for. Moreover, I have no reason to believe I used it with clients. To the best of my knowledge and ability, I do not believe I ever had a reason to use their Structured Assets Presentation. I have already submitted the Structured Assets Buyer's Guide in a prior exhibit.

Email Disclosure #3 I have elected not to submit an email titled Re: Structured Assets from dwoodward@financialproductdistributors.com addressed to a potential buyer with an engineering background. It discusses the intricacies of financial software that I was not comfortable explaining. This financial software is found on www.timevalue.com. The email is dated May 17, 2017 at 02:58. He did not proceed further with structured assets.

Email Disclosure #4 I have elected not to submit an email document titled Sales Idea: 5-year laddering strategy with Structured Assets. The email is sent from info@structured-assets.com on April 26, 2016, at 17:12. I never asked for this idea. I never entertained this idea either for myself or clients. As far as I know, this idea was ultimately canceled by the author. Moreover, I did not quite understand it, and to the best of my recollection, never used it with a single person. It contained several illustrations and charts which I found irrelevant to our work with clients, and I saw no reason to ever use them.

Email Disclosure #5 I have elected not to send an email I received from Attorney Alan Baskin which was then forwarded to dwoodward@financialproductdistributors.com.

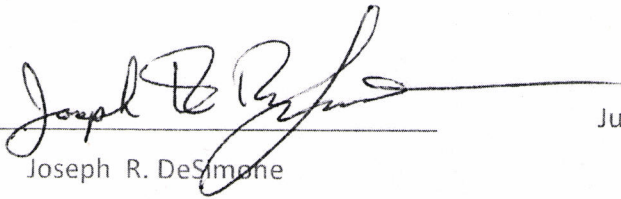
The title of the email is FWD/ACC/Privileged Communication. At the time I was deciding whether engaging Attorney Alan Baskin would be beneficial. Alan had asked me to obtain some initial information as we discussed the possibilities of working together.

Software Disclosure

I have an Microsoft Excel worksheet called "Structured Assets Contracted Payments Scheduled Calculator" by Vertex42.com.

I also have a program called "Microsoft Excel 97-2003 Worksheet".

To the best of my ability and recollection I don't recall having much use for these items. In practice I would obtain illustrations from Financial Product Distributors, LLC.



Joseph R. DeSimone

June 20, 2017

AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA)
County of PIMA) ss.
)

The undersigned hereby declares, under oath, that the following statements are true:

1. I am over the age of eighteen, have personal knowledge of the facts set forth below, and am competent to testify.
2. I am the duly authorized Custodian of Records of DE SIMONE
BLUE CHIP PLANNING LLC
3. I have the authority to certify said records.
4. The records submitted herewith are true copies of all records under my possession or control responsive to the Subpoena directed to the Custodian of Records of the entity identified in paragraph 2 above.
5. The records were prepared or obtained by personnel or representatives of the entity or persons acting under the control of personnel or representatives of the entity identified in paragraph 2 above in the ordinary course of business at or near the time of the act, condition, or event in said records.
6. The records are kept in the course of regularly conducted business pursuant to the regular practice of the entity identified in paragraph 2 above.

Joseph De Simone
Custodian of Records - JOSEPH DE SIMONE

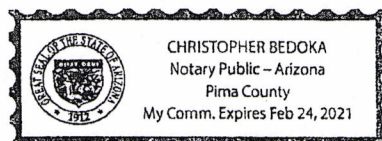
SUBSCRIBED and SWORN to before me this 19th day of JUNE, 2017, by
JOSEPH DE SIMONE

My Commission Expires:

FEB. 24, 2021

Christopher Bedoka
NOTARY PUBLIC

(seal)



ACC000345 / FILE #8695

Name: TONI BROWN

Sender: JOSEPH DESIMONE

7/6/2017 11:29

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Arizona Corp Commission
Securities Division

7/6/2017

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JOSEPH DESIMONE

THE UPS STORE #6799

STF 118

AZ

18 LBS

SHP WT: 18 LBS

DATE: 03 JUL 2017

OF 1

SHIP MS. TONI BROWN/ SECURITIES DIVISION

TO: ARIZONA CORPORATION COMMISSION

FL 3

1300 W WASHINGTON ST

Phoenix AZ 85007-2951

AZ 850 9-20

UPS GROUND

TRACKING #: 1Z 301 3TT 42 7553 8352

BILLING: P/P

SIGNATURE REQUIRED

Received

JUL 06 2017

REF #1: 7/3/2017 CB

REF #2: 6799

Arizona Corp Commission
Securities Division

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ARIZONA COMMISSION

1300 W WASHINGTON ST

FL 3

PHOENIX AZ 85007-2928

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DATE: 03 JUL 2017

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DATE: 03 JUL 2017